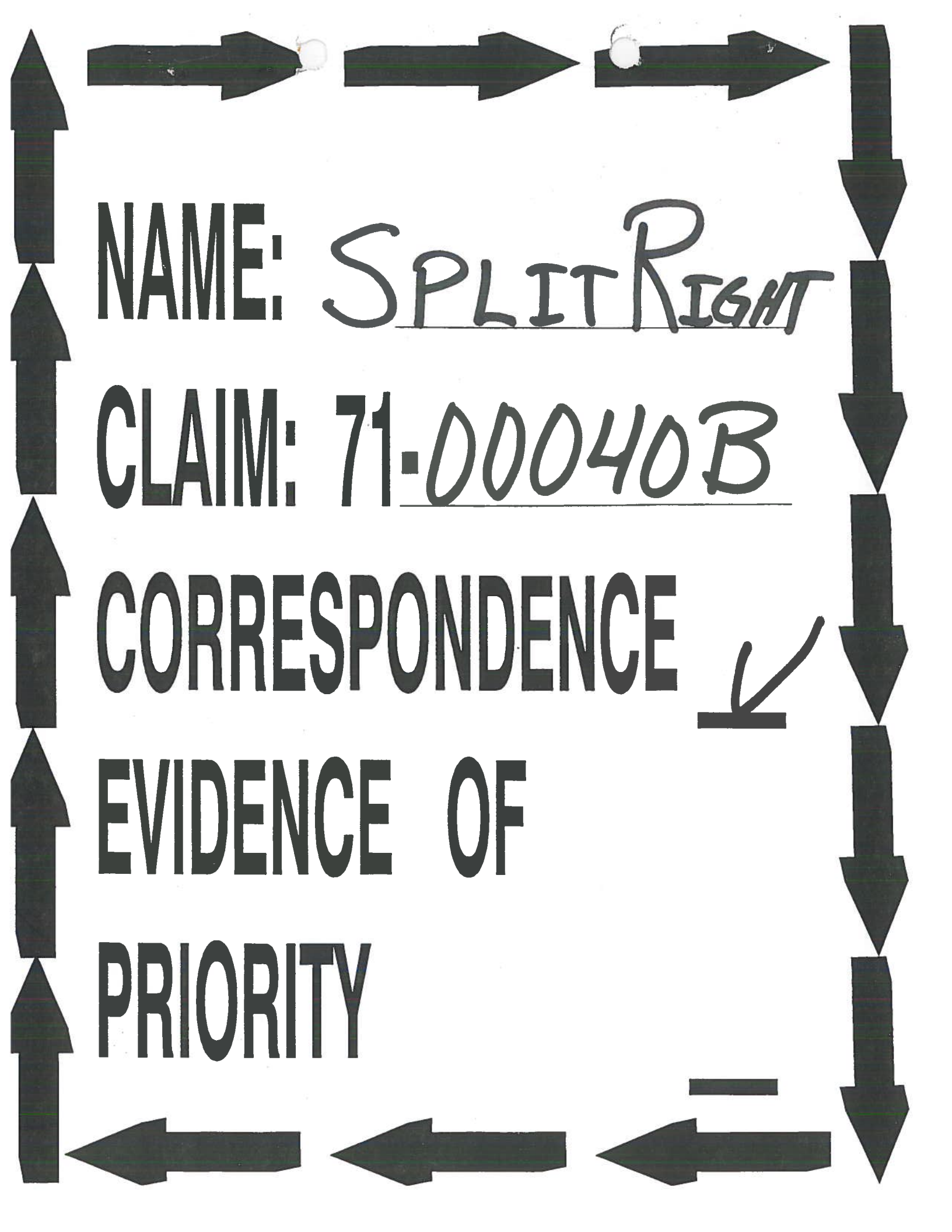




NAME: SPLIT RIGHT

CLAIM: 71-00040B

CORRESPONDENCE

EVIDENCE OF

PRIORITY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A71-00040B**
Date Received: 1/11/1990
Receipt No: S010919
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: SPLIT RIGHT
Address:
X ID

0

2. Date of Priority: MAY 1, 1912

3. Source: VALLEY CREEK
SPLIT RIGHT

Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11N	12E	4	SW	NW	NE		CUSTER

5. Description of diverting works:
ROCK DIVERSIONS, COLLECTION DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.400		

7. Total Quantity Appropriated is:
2.400 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 257.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	NE		IRR	18.0
			NW	NE		IRR	5.0
			SW	NE		IRR	29.0
			SE	NE		IRR	38.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	SE		IRR	7.0
			NW	SE		IRR	3.0
						Section Acres	100.0
		12	SW	NW		IRR	3.0
						Section Acres	3.0
						Total Acres	103.0

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A71-00039B & A71-10136

14. Remarks:

P/U IS H.E.S. 109.

THIS IS FOR A 2/3 PORTION OF WR 71-00040.

THIS CLAIM WAS SPLIT BASED UPON THE FORMER OWNER'S SIGNATURE ON FORM 42-1409(7). THE SPLIT IS AS FOLLOWS:

PART C TO BERMAN FOR 1.93 CFS

PART D TO BRUBAKER FOR 0.47 CFS FOR LOT 6 OF THE THOMPSON CREEK RANCH SUBDIVISION. KKC 5-8-95

AN ADMINISTRATIVE MODIFICATION WAS MADE TO THE PLACE OF USE TO REFLECT THE PLACE OF USE AS IDENTIFIED THROUGH THE GIS PROCESS. THIS IS CONSIDERED A MODIFICATION OF THE SPLIT DURING THE CHANGE OF OWNERSHIP PROCESS. THE DIVERSION RATE FOR THIS SPLIT WAS ALSO MODIFIED TO REFLECT THE PLACE OF USE CHANGE. KKC 3-27-98

PART C TO BERMAN FOR 1.92 CFS.

PART D TO BRUBAKER FOR 0.48 CFS FOR LOT 6 OF THE THOMPSON CREEK RANCH SUBDIVISION

15. Basis of Claim:

Post-it Fax Note 7671		Date 4/11/95	# of pages 1
To Kelley Johnston	From Noel Sifton		
Co./Dept.	Do McGowan Creek, Front		
Phone #	Phone # 774-2255		
Fax # 736-3037	Fax # 774-3542		

RECEIVED

APR 11 1995

Department of Water Resources
Southern Region

SUGGESTED DISTRIBUTION OF WATER RIGHTS
FOR THOMPSON CREEK RANCH SUBDIVISION.
CUSTER COUNTY, IDAHO.

THOMPSON CREEK

VALLEY/McGOWAN/HANNAH
CREEKS

LOT 1 -	.14 C.F.S.	.46 C.F.S.
LOT 2 -	.11 C.F.S.	.49 C.F.S.
LOT 3 -	.11 C.F.S.	.49 C.F.S.
LOT 4 -	.04 C.F.S.	.56 C.F.S.
LOT 5 -	NONE	.60 C.F.S.
LOT 6 -	NONE	.60 C.F.S.
TOTAL	<u>0.400 C.F.S.</u>	<u>3.200 C.F.S.</u>

TOTAL C.F.S. -

LOT 1 - .60 C.F.S.
 LOT 2 - .60 C.F.S.
 LOT 3 - .60 C.F.S.
 LOT 4 - .60 C.F.S.
 LOT 5 - .60 C.F.S.
 LOT 6 - .60 C.F.S.



REEVALUATION OF THOMPSON CREEK SUBDIVISION LOTS AS IT AFFECTS ADJUDICATION CLAIMS BASED ON 71-00039, 71-00040, AND A71-10136

The department has adopted the computerized Geographic Information System (GIS) as the tool of the future for water rights recording and analysis. This tool provides a greater degree of accuracy, a visual representation of the place of use, and is less prone to error.

The initial claims filed by Mr Berman have currently been proportionately split three different times based upon ownership changes for specific subdivision lots. The original splits of these rights were based upon orthophotography and planimeter acre calculations. The GIS process has calculated the place of use by both overall acreage and acreage by quarter/quarters within each lot (GIS maps attached.) Through GIS there has been a slight acre shift for the irrigated ground within the subdivision and this shift is the basis for the modification of the splits of the original claims.

As a unit GIS calculated an additional 3.5 acres irrigated under adjudication claims A71-00039B and A71-00040B. More acres were claimed under those two rights than was found irrigated. All non-irrigated acres stayed with the split portion that was under Mr Berman's name. As the splits were made, only actually irrigated acres were split from the base right for (A71-00039D & A71-00040D the Brubaker sale), (A71-00039E & A71-00040E the Hill sale), and (A71-00039G & A71-00040G the Mahoney sale). The place of use for (A71-00039H & A71-00040H the Peters sale) includes the recognized 13.8 irrigated acres and the balance of 29.2 non-irrigated acres. The recommendation to the SRBA court will not reflect non-irrigated acres.

Again using GIS, an additional 6 acres irrigated were identified under claim A71-10136. They bring the total irrigated place of use under A71-10136 to three acres more than claimed. That shortage is currently identified under A71-10136B and will be addressed specifically with the Hills.

Because of the increase in acres and the shift within each lot, the proportional rate that is appurtenant to each lot also changed in most cases. See the attached table showing the place of use segregated by lot and quarter/quarter. See also, the attached split tree that identifies the appurtenant diversion rates per lot.

SALE TO BRUBAKER (lot 6)

The required modifications begin with the first change of ownership where lot 6 was sold to Mr Brubaker.

PLACE OF USE COMPARISON			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
6	14.5	15	20%

MODIFICATION SUMMARY

claim number	original div rate	gis div rate	original acres	gis acres
A71-00039D	.16 cfs	.16 cfs	14.5	15.0
A71-00040D	.48 cfs	.48 cfs	14.5	15.0
A71-00039C	.64 cfs	.64 cfs	88.5	88.0
A71-00040C	.48 cfs	.48 cfs	88.5	88.0

The found irrigated acreage increased $\frac{1}{2}$ acre and the place of use by quarter/quarter (QQ) has also changed. This, however, did not change the proportionate diversion rate for either right. All four rights have been modified to reflect the $\frac{1}{2}$ acre and QQ change. This data reflects irrigated ground only.

SALE TO HILL (lots 1, 2, and 3)

This sale includes a change in acres and also the proportionate rate per acre, therefore, the six rights (post split) have been modified as follows:

PLACE OF USE COMPARISON			
for A71-00039E & A71-00040E			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
1	10	11	14%
2	10	11.3	15%
3	11.5	12.4	16%
total	31.5	34.7	
for A71-10136A			
lot no.	original lot acres	gis lot acres	proportionate share of P/U
	8.0	9.0	38%
	5.5	5.5	23%
	5.5	6.7	28%
total	19.0	21.2	

MODIFICATION SUMMARY

claim number	original div rate	gis div rate	original acres	gis acres
A71-00039E	.35 cfs	.36 cfs	31.5	34.7
A71-00040E	1.04 cfs	1.08 cfs	31.5	34.7

A71-10136A	.36 cfs	.35 cfs	19.0	21.2
A71-00039F	.29 cfs	.28 cfs	57.0	53.3
A71-00040F	.89 cfs	.84 cfs	57.0	53.3
A71-10136B	.04 cfs	.05 cfs	19.0	21.2

SALE TO HILL (continued)

For Valley Creek and McGowan Creek water GIS calculated an additional 3.2 acres and for Thompson Creek Gis calculated 2.1 additional acres. Based upon a proportionate acre calculation the diversion rates for each right also has to be adjusted. All 6 rights involved in the splits have been modified based upon the GIS calculations. This data reflects irrigated ground only.

SALE TO MICHAEL MAHONEY

As the split rights were not generated using the original planimeter data, no modification of the rights is required. They reflect GIS information only. However, the original planimeter data can be compared to the GIS data through the use of the enclosed charts and tables.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039G	.14 cfs	13.0
A71-00040G	.41 cfs	13.0
A71-10136B	.05 cfs	2.8

This data reflects irrigated ground only.

SALE TO PETERS (lot 5)

The balance of the place of use remains with the claim portions now in Mr Peter's name. Unlike the previous claims these rights include the originally claimed ground that was found to be outside the irrigated ground.

<u>claim number</u>	<u>gis div rate</u>	<u>gis acres</u>
A71-00039H	.14 cfs	13.8
A71-00040H	.43 cfs	13.8

**VALLEY CREEK SUBDIVISION ANALYSIS OF THE PLACE OF USE
BY SUBDIVISION LOT AND WATER RIGHT SOURCE FOR ADJUDICATION
CLAIMS A71-00039B, A71-00040B, AND A71-10316
AND ANY SUBSEQUENT SPLITS THEREOF**

ACRES IRRIGATED FROM VALLEY CREEK AND MC GOWAN CREEK										ACRES IRRIGATED FROM THOMPSON CREEK					
lot #	NE $\frac{1}{4}$ NE $\frac{1}{4}$	NW $\frac{1}{4}$ NE $\frac{1}{4}$	SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	NW $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL	% OF TOTAL		SW $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ SE $\frac{1}{4}$	LOT TOTAL	% OF TOTAL	
1				5.7	4.9	.2	11.0	0.14			5.7	3.3	9.0	0.38	
2			.4	6.3	.8	1.9	11.3	0.15			5.4	.1	5.5	0.23	
3			4.4	6.8		.6	12.4	0.16		.1	6.6		6.7	0.28	
4	1.2		7.7	4.1			13.0	0.17		1	1.8		2.8	0.12	
5	3.2	1.1	9.2	.3			13.8	0.18					0.0	0.00	
6	2.1	5.7	7.2				15.0	0.20					0.0	0.00	
Q/Q TOTAL	6.50	6.8	28.9	23.2	5.7	2.7	76.5	1.00		1.1	19.5	3.4	24.0	1.01	

The acreage by lot and quarter/quarter have been calculated through the GIS system on 3-16-1998. This data supersedes the previous lot acre calculations completed using a planimeter on 12-14-1994.

SPLIT TREE FOR:

A71-00039 for 1.20 cfs McGowan Cr
A71-00040 for 3.60 cfs Valley Cr
A71-10136 for 0.40 cfs Thompson Cr

BERMAN

A71-00039B for 0.80 cfs
A71-00040B for 2.40 cfs
A71-10136 for 0.40 cfs

MAHONEY

A71-00039A for 0.43 cfs
A71-00040A for 1.20 cfs

OWNERSHIP CHANGE

BERMAN

A71-00039C for 0.64 cfs
A71-00040C for 1.92 cfs
A71-10136 for 0.40 cfs

**BERMAN'S CLAIMS AS APPURTENANT
TO EACH IRRIGATED PORTION OF THE
REMAINING LOTS UNDER HIS OWNERSHIP**

LOT 1

A71-00039C for 0.11 cfs
A71-00040C for 0.34 cfs
A71-10136 for 0.15 cfs

LOT 4

A71-00039C for 0.14 cfs
A71-00040C for 0.41 cfs
A71-10136 for 0.05 cfs

LOT 2

A71-00039C for 0.12 cfs
A71-00040C for 0.36 cfs
A71-10136 for 0.09 cfs

LOT 5

A71-00039C for 0.14 cfs
A71-00040C for 0.43 cfs

LOT 3

A71-00039C for 0.13 cfs
A71-00040C for 0.38 cfs
A71-10136 for 0.11 cfs

OWNERSHIP CHANGE

HILL

A71-00039E for 0.36 cfs
A71-00040E for 1.08 cfs
A71-10136A for 0.35 cfs

BERMAN

A71-00039F for 0.28 cfs
A71-00040F for 0.84 cfs
A71-10136B for 0.05 cfs

LOT 1

A71-00039E for 0.11 cfs
A71-00040E for 0.34 cfs
A71-10136A for 0.15 cfs

LOT 4

A71-00039F for 0.14 cfs
A71-00040F for 0.41 cfs
A71-10136B for 0.05 cfs

LOT 2

A71-00039E for 0.12 cfs
A71-00040E for 0.36 cfs
A71-10136A for 0.09 cfs

LOT 5

A71-00039F for 0.14 cfs
A71-00040F for 0.43 cfs

LOT 3

A71-00039E for 0.13 cfs
A71-00040E for 0.38 cfs
A71-10136A for 0.11 cfs

OWNERSHIP CHANGE

MAHONEY

LOT 4
A71-00039G for 0.14 cfs
A71-00040G for 0.41 cfs
A71-10136B for 0.05 cfs

PETERS

LOT 5
A71-00039H for 0.14 cfs
A71-00040H for 0.43 cfs



BASIS FOR RECOMMENDATION FOR: A71-00039B, A71-00040B, AND A71-10136

At the time I conducted a field verification exam for HES-109 the property was split into two segments and irrigated as such. Part A, the southwest portion was and currently is owned by Mr Mahoney. Part B, subsequent to my field verification was subdivided into the Thompson Creek Subdivision consisting of 6 lots. It was and currently is irrigated as a unit. The irrigation practices have not changed based upon the subdivision lot ownership. Currently three different owners exist for the three lots and are claimed as follows;

A71-00039D, and A71-00040D,	for lot 6	owner = Brubaker
A71-00039E, A71-00040E, & A71-10136A	for lots 1, 2, and 3	owner = Hill
A71-00039F, A71-00040F, & A71-10136B	for lots 4 and 5	owner = Berman

As the Thompson Creek Subdivision was and is operated as a unit, for irrigation purposes, my analysis and recommendation is based upon that system. That recommendation has subsequently been split based upon ownership for the individual ownership of the subdivision lots.

LISTING OF ADDITIONAL ATTACHMENTS FOR BASIS OF RECOMMENDATION:

TITLE	DATE	PREPARER
1. P/D SYSTEM FOR 11N, 12E, SEC 4 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	6-2-94	KKC
2. ANALYSIS OF THE SYSTEM (Thompson Creek Subdivision table of lot acres)	12-14-94	KKC
3. SPLIT TREE FOR: (claim # listing)	7-25-96	KKC

BASIS FOR SPLITS OF A71-00039B, A71-00040B, AND A71-10136

The splits of these rights were based upon the recommended irrigated acres as shown in the table of attachment 2. I developed the table from the overlay of the subdivision lots on an orthophotographic quad map that outlined the found irrigated place of use. This information was submitted to the claimants for their review prior to splitting the claims. Documentation common to the related rights was developed and filed in the following base rights; A71-00039B, A71-00040B, and A71-10136. The common information consists of field verification information, completed CVRs, assorted maps, and other related documents. Place of use photos are in file A71-00039B.

*Superseded
3-30-98*

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A71-00040B
Date Received: 1/11/1990
Receipt No: S010919
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DANIEL L. BERMAN 801-328-2200
Address: 50 S. MAIN ST., SUITE 1250
SALT LAKE CITY, UT 84144

2. Date of Priority: MAY 01, 1912

3. Source: VALLEY CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11N	12E	4	SW	NW	NE		CUSTER

5. Description of diverting works:
ROCK DIVERSIONS, COLLECTION DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.400		

7. Total Quantity Appropriated is:
2.400 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 257.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	NE		IRR	18.0
			NW	NE		IRR	5.0
			SW	NE		IRR	29.0
			SE	NE		IRR	38.0

A71-00040B

Page 1

Date: 01/11/90

MICROFILMED
MAR 17 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11N	12E	11	NE	SE		IRR	7.0
			NW	SE		IRR	3.0
					Section Acres		100.0
		12	SW	NW		IRR	3.0
					Section Acres		3.0
					Total Acres		103.0

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A71-00039B & A71-10136

14. Remarks:
P/U IS H.E.S. 109.
THIS IS FOR A 2/3 PORTION OF WR 71-00040.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

DAN J. CAVANAGH
Decree Plaintiff

vs

WM. MERRITT, ET AL
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am ATTORNEY in fact of

DANIEL L. BERMAN, that I have signed the foregoing
Organization

document in the space below as ATTORNEY in fact of

DANIEL L. BERMAN and that the statements contained in the
Organization

foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

ATTORNEY in fact for DANIEL L. BERMAN
Title and Organization

JAN 11, 1990
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 11th day
of January 19 90

[Signature]
Notary Public

Seal

Residing at Twin Falls
My Commission Expires Dec 7, 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor PHILLIP E BATT

R. KEITH HIGGINSON
Director

May 8, 1995

DANIEL L BERMAN
50 S MAIN ST SUITE 1250
SALT LAKE CITY UT 84144

RE: SNAKE RIVER BASIN ADJUDICATION CLAIMS A71-00039B & A71-00040B
CHANGE OF OWNERSHIP AND SPLIT OF RIGHTS

Dear Mr Berman

Enclosed are your copies of the above listed claims as changed and a copy of the ownership change request. Please review the claims to verify that the data is correct.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED
MAY 03 1995
Idaho Department of Water Resources
Southwest Region

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township 11 North Range 12 East Section 11, 1/4 of 1/4 of 1/4 Govt. Lot HES108
Lot 6, Block, _____, Subdivision/Townsite Thompson Creek Ranch
If you have additional legal descriptions, please attach separate sheet.

- [] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- [] Water Right Number(s)
Assigned by IDWR: A71-00039B and A71-00040B
- [] Name and Address of Former Owner/Claimant(s)(Seller): Daniel L. Berman
Suite 1250, 50 S. Main St., S.L.C., UT 84144
- [] New Owner/Claimant (Purchaser): Fred Harold and Dela Devlin Brubaker
- [] New Mailing Address: P.O. Box 97, Stanley, ID 83278
- [] New Telephone Number: (208) 774 - 2254
- [] Does the change in ownership result in a splitting of the water right owned/claimed? X yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
Refer to attached "EXHIBIT A", Lot 6, as provided by Idaho
Department of Water Resources
- [] Attach proof of ownership, describe proof attached: _____
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)
- [] Signature of New Owner/Claimant(s) Fred Brubaker Date 4-26-95
Dela Brubaker Date 4-26-95
- [] Signature of Former Owner/Claimant(s) Dan Berman Date 5/1/95
Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

April 12, 1995

NOEL SITTON
PO BOX 200
STANLEY ID 83278

RE: DATA RELATING TO THOMPSON CREEK RANCH SUBDIVISION LOTS AS
RELATED TO ADJUDICATION CLAIMS A71-00039B, A71-00040B AND
A71-10136.

Dear Noel

The split calculations were made on a proportionate basis based upon irrigated acres per lot verses total irrigated acres. The recommended amounts are rounded to the nearest one hundredth of a cfs. I did not list the proportionate acre factors for the Thompson creek water. Please refer to the 'Analysis of System' table that was mailed earlier for the acreage breakdown.

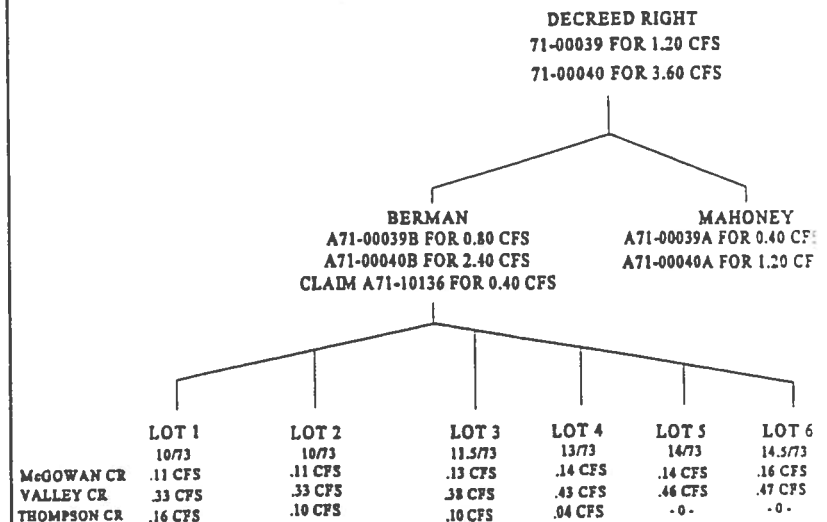
As long as specific lots are still within a single ownership the allotted amounts can just be added together to determine the total share for that ownership. The lots appurtenant to that ownership can be listed in the remarks of the claim.

If you have any additional questions please give me a call.

Sincerely

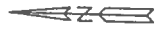
Kelly K Christensen
Sr Water Resource Agent

THOMPSON CR. RANCH SUBDIVISION POTENTIAL SPLITS OF HES-109



*Superseded
3-30-98*

Fa. B.C.
Cor. No. 6 HES 109



SCALE 1"=200'

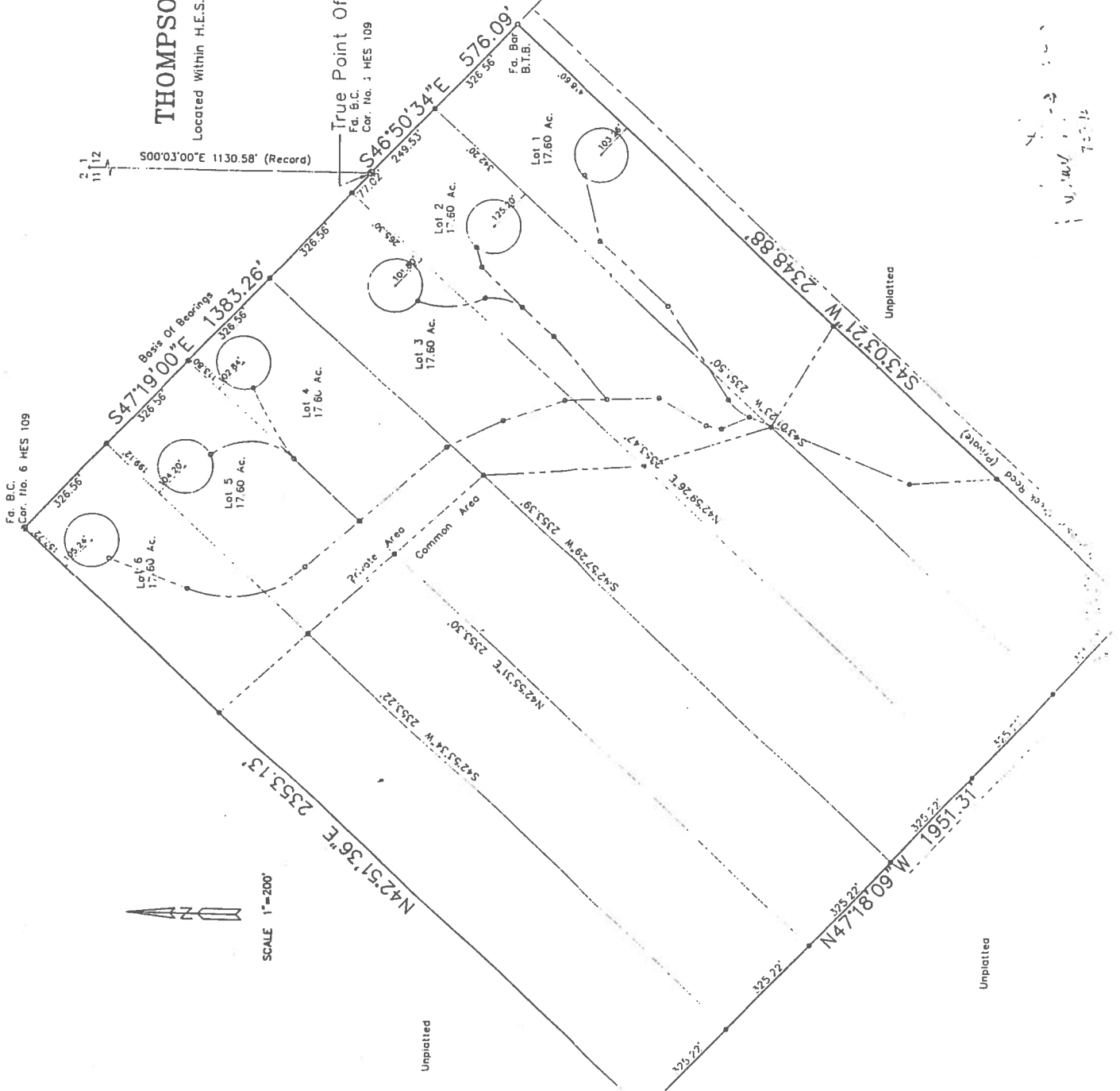
A Plat Showing

THOMPSON CREEK RANCH SUBDIVISION

Located Within H.E.S. 109, Sections 11 & 12, T.11N., R.12E., B.M., Custer County, Idaho

July, 1992

True Point Of Beginning
Fa. B.C.
Cor. No. 3 HES 109



Legend

- Set 1/2" Bar capped LS 3621
- o Found 5/8" Bar by B.T. Butler
- o Found Brass Cap by GLO
- o Found Bar (Alum. Cap)
- Approved Building Area Envelope
- Center Line 40' Private Road & Public U.I.; Easement
- Division Line Private/Common Area

Notes

- The developer may relocate any building area envelope within the "Private Area" of any lot prior to the sale of the first lot in this subdivision. No building area envelope will be located closer than 25 feet to any lot line.
- Each lot owner shall have the right to relocate the building area envelope on such owner's lot with written approval of such relocation by the Design Review Committee, which approval shall not be unreasonably withheld.
- All roads within this subdivision are private streets. Construction, maintenance and snow removal with respect to the roads within this subdivision shall be the obligation of each lot owner or the homeowners association. Custer County is in no way obligated to accept, maintain or improve these roads.
- The developer may establish easements, covenants, restrictions, rules and regulations regarding the rights of lot owners within the common and private areas of the subdivision for the mutual benefit. Reference should be made to such easements, covenants, restrictions, rules and regulations.

Unplatted

7/23/92



DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

December 15, 1994

DANIEL L BERMAN
50 S MAIN ST SUITE 1250
SALT LAKE CITY, UT 84144

RE: CHANGE OF OWNERSHIP FOR SNAKE RIVER BASIN ADJUDICATION CLAIMS
A71-00039B, A71-00040B, AND A71-10136

Dear Mr Berman

I have sufficient paperwork before me to do the change of ownership based upon owned acres but I need your input on splitting the diversion rates on the claims as I do not feel that splitting the rights based upon owned acres would fit the irrigation practices occurring on the property. I have enclosed a copy of the U-68 orthophotograph (enlarged 200%) with your property outlined and the acres identified per quarter/quarter as it relates to the irrigated acres per system. I have also enclosed an acre breakdown identifying irrigated acres per lot per quarter/quarter. The enclosed map and acre breakdown represents my tentative recommendation of irrigated acres based upon my 9-14-1993 field examination and if you disagree with my findings I need to know.

The most significant difference between your claims and the acres that I identified as irrigated is the acres irrigated from Thompson Creek. In observing the physical slope of the ground I have outlined the ground that I feel can be irrigated with Thompson Creek water by a gravity system. As you can see, lots 5 and 6 do not include acres irrigated from Thompson Creek. If I were to split A71-10136 based upon total owned acres I would have to allocate a portion of the diversion rate to lot 6 and then in my recommendation I would have to disallow that portion of the claim based upon, no beneficial use found. That would also result in a reduced diversion rate available for recommendation for the ground actually irrigated from Thompson Creek.

As these are your claims, I cannot arbitrarily choose the method to split the claims. I need your direction. The method usually used by the department to split rights is to split the claims proportionally based upon the actual irrigated acres.

BERMAN

Page 2

December 15, 1994

Please notify me as soon as possible how you wish these claims to split as I can now only split them based upon owned acres which I do not feel represents the irrigation practices.

If you have any questions please call me at this office.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures
cc Fred Brubaker



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

20-OCT-1994 12:44

5 6 11 11

NOV 07 1994

FRED & DELA BRUBAKER
PO BOX 97
STANLEY, ID 83278

Department of Water Resources
Southern Region Office

RE: ADJUDICATION CLAIM A71-10136, A71-00039B, & A71-00040B
DANIEL BERMAN

DEAR CLAIMANT(S):

THANK YOU FOR RETURNING THE NEW PROPERTY OWNER NOTICE FORM. HOWEVER, WE NEED A LEGAL PROOF OF OWNERSHIP (COPY OF THE WARRANTY DEED OR SOME OTHER STRONG EVIDENCE OF MUTUAL INTENT WITH THE FORMER OWNER'S SIGNATURE SHOWING YOUR NAME AS BUYER ON THE SUBJECT PROPERTY) OR JUST A SIGNATURE OF MR. BERMAN ON THE NOTICE.

IF YOU COULD SEND US A COPY OF THIS PROOF IT WOULD BE GREATLY APPRECIATED

I APOLOGIZE FOR THE DELAY IN THE TRANSFER PROCESS. I WILL GET THIS INFORMATION ENTERED AND COPIES WILL BE FORWARDED BACK TO YOU.

SHOULD YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE OFFICE ANY TIME AT 208-736-3033.

SINCERELY,

Tara L Backlund

TARA L. BACKLUND
IDAHO DEPARTMENT OF WATER RESOURCES
RECORDS CLERK

ENCLOSURES

Tara

11/3/94

Enclosed is a copy of the warranty deed.

Thank you

Debra Brubaker



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

5 6 7 8 9

DATE OF CLOSING: 8-3-94

NOV 07 1994

LEGAL DESCRIPTION OF PROPERTY: Township 11 NORTH Range 12 EAST Department of Water Resources
Section 11, 12 1/4 of 1/4 of 1/4 Govt. Lot , BM Southern Region Office
Lot 6, Block , Subdivision/Townsite THOMPSON CREEK SUB.
If you have additional legal descriptions, please attach separate sheet.

- [] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- [] Water Right Number(s) Assigned by IDWR: A71-10136, A71-00039B, A71-00040B by legal des. given.
- [] Name and Address of Former Owner/Claimant(s)(Seller): DANIEL L. BERMAN
50 S. MAIN ST. SUITE 1250
SALT LAKE CITY UT 84144
- [] New Owner/Claimant (Purchaser): FRED & DELA BRUBAKER
- [] New Mailing Address: BOX 97
STANLEY ID 83278
- [] New Telephone Number: (208) 774-2254
- [] Does the change in ownership result in a splitting of the water right owned/claimed? ☒ yes ☐ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- [] Attach proof of ownership, describe proof attached: _____
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- [] Signature of New Owner/Claimant(s): Fred Brubaker Date 8-29-94
DeLa Brubaker Date 8-29-94
- [] Signature of Former Owner/Claimant(s): _____ Date _____
_____ Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10-20-94 By: HLB

Further Action Needed:

Proof of ownership

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

Order No. 20109

WARRANTY DEED

FOR VALUE RECEIVED

Daniel L. Berman, a married man, as his sole and separate property

GRANTOR(s), do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

Fred Harold Brubaker and Dela Devlin Brubaker, husband and wife

GRANTEE(s) whose address is: P.O. Box 97, Stanley, ID 83278

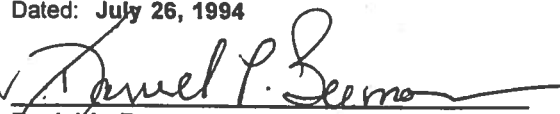
the following described real property in Custer County, Idaho, to wit:

Lot 6, THOMPSON CREEK RANCH SUBDIVISION, located within H.E.S. 109, Sections 11 and 12, Town 11 North, Range 12 East, Boise Meridian, Custer County, Idaho, as shown by the Official Plat then recorded July 13, 1992, as Instrument No. 202008, records of Custer County, Idaho.

Subject To: Taxes, easements, restrictions and encumbrances of record.

TO HAVE AND TO HOLD said premises, with their appurtenances unto the said Grantee and to the Grantee's and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor the owner in fee simple of said premises; that they are free from all encumbrances except as described above that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: July 26, 1994


Daniel L. Berman

State of Utah

County of SALT LAKE

On this 28th day of July, before me, a notary public in and for said State, personally appeared Daniel L. Berman, known or identified to me to be the person(s) whose name(s) subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.


Notary Public
Residing at West Jordan, Utah
Commission Expires: 1/16/96

NOTARY PUBLIC
LESA C. OLSON
709 East South Temple
Salt Lake City, Utah 84102
My Commission Expires
January 16, 1996

NOV 07 1994
Department of Water Resources
Southern Region Office

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LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, DANIEL L. BERMAN, of 50 South Main Street, Suite 1250, Salt Lake City, County of Salt Lake City, State of Utah, has made, constituted, and appointed, and by these presents does make, constitute, and appoint the law firm of HEPWORTH, NUNGESTER & LEZAMIZ, of 133 Shoshone Street East, Twin Falls, County of Twin Falls, State of Idaho, to act in my name, place, and stead, and for my use and benefit to handle any and all affairs pertaining to water right claims pursuant to the Snake River Adjudication appurtenant to that realty in which I have an interest and which is located in Challis, Custer County, State of Idaho, and more particularly described as follows, to-wit:

Beginning at Corner No. 1 from which the corner to Sections 1, 2, 11 and 12 in Township 11 North, Range 12 East, Boise Meridian bears North 3° West 1130.58 feet distant; thence South 47°19' East 576.22 feet to the Northwest side of the Thompson Creek right-of-way; thence South 42°36' West, 2346.96 feet, more or less, along the Thompson Creek right-of-way to the Southwesterly side of said Homestead Entry Survey No. 109; thence North 47°26' West, 1958.46 feet to Corner No. 5 of said Homestead Entry Survey No. 109; thence North 42°37' East to Corner No. 6; thence South 47°19' East, 1381.38 feet to Corner No. 1 the True Point of Beginning.

TOGETHER WITH all water and water rights, and ditch and ditch rights appurtenant thereto or used in connection therewith.

SUBJECT TO all reservations in patents or state grants or in the laws authorizing the issuance thereof, all Federal, State, County, and other zoning or land use requirements and restrictions now or hereafter imposed by any governmental unit; and SUBJECT TO the right of way contained in the Warranty Deed dated October 24, 1972, from William R. Chivers et ux., et al. to Clyde B. Stark, Jr. and Norma C. Stark, recorded January 17, 1973,

LAW OFFICES

HNL

Chartered

Hepworth
Nungester,
& Lezamiz

LIMITED POWER OF ATTORNEY

MICROFILMED

MAR 17 1993

1 as instrument no. 134978 records of Custer
2 County, Idaho.

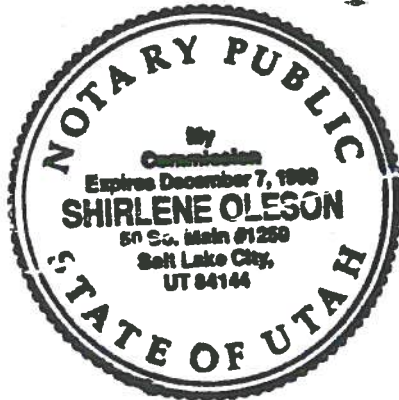
3 This Power of Attorney shall not be affected by my
4 disability.

5 WITNESS My hand this 5th day of January, 1990.

6 
DANIEL L. BERMAN

7 Sworn and subscribed to before me this 5th day of
8 January, 1990.

9 
10 Notary Public
11 Residing at Santaquin, Utah



11/11

12/11

12/11

C-1265
C.B. Stark
Garth Chivers
T.W. Chivers
J.B. Chivers
B. Innes
K. Payne

29

18

38

7

C-114

Kathryn Young

M. Christensen
Coast Co.

11/12
14/12

A71-00040B

MICROFILMED

MAR 17 1993

R PROOF

CVR

MAPS

PHOTOS

MISC

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AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

04/01/98 12:15:01
Page 1

Water Right Number - R71-000408

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - - - + - - - - Address - - - - +

*** A - ATTORNEY ***
GROOM

BRIT

1 - PO BOX 389
2 -
3 -
City- TWIN FALLS
Phone - 208-734-7510

State- ID Zip- 833030389

*** C - CURRENT OWNER ***
SPLIT RIGHT

1 -
2 -
3 -
City- X
Phone - 208-000-0000

State- ID Zip- 0

*** O - ORIGINAL OWNER ***
BERMAN

DANIEL L

1 - 50 S MAIN ST SUITE 1250
2 -
3 -
City- SALT LAKE CITY
Phone - 801-328-2200

State- UT Zip- 84144

+ - - Priority Date - - +
05/01/1912

+ - - Region - - - +
17 SOUTHERN

+ - - Stage - - - +

+ - - Status - - - +
2 - SEE REMARKS

+ - - Source - - - - +
VALLEY CREEK
SPLIT RIGHT

+ - - Tributary - - - - +
SALMON RIVER

+ - - - - Point of Diversion - - - - +
Twn Rng Sec Tract Lot Rflg County
11N 12E 4 SW NW NE (37) CUSTER

+ - - - - Water Use - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 2.400

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
2.400 257.5

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
11N	12E	11	NE NE		18.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	NW NE		5.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	SW NE		29.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	SE NE		38.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	NE SE		7.0	01	IRRIGATION	(37) CUSTER	
11N	12E	11	NW SE		3.0	01	IRRIGATION	(37) CUSTER	
11N	12E	12	SW NW		3.0	01	IRRIGATION	(37) CUSTER	

Total Acres: 103.0

Water right number - R71-00040B

Prefix Translation: RESEARCH

+ - - Diversion Means - ROCK DIVERSIONS, COLLECTION DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - A71-00039B & A71-10136

+ - - Remarks -

GEN SEE NOS. 71-00040C AND 71-00040D.

A7100040

Old Water Right Numbers

Conditions of Approval -
No Conditions of Approval found.

+ - - Decree Plaintiff - - +
DAN J. CAVANAGH

+ - - Decree Defendant - - +
WM. MERRITT, ET AL

+ - Decree Date - +
00/00/0000

Date: 05/08/1995 User Id: KCHRISTE Subject: COPIED FROM REMARKS

P/U IS H.E.S. 109.

THIS CLAIM WAS SPLIT BASED UPON THE FORMER OWNER'S SIGNATURE ON
PART C TO BERMAN FOR 1.93 CFS

RANCH SUBDIVISION. KKC 5-8-95

Date: 04/01/1998 User Id: KCHRISTE Subject: COPIED FROM REMARKS

P/U IS H.E.S. 109.

THIS CLAIM WAS SPLIT BASED UPON THE FORMER OWNER'S SIGNATURE ON
PART C TO BERMAN FOR 1.93 CFS

RANCH SUBDIVISION. KKC 5-8-95

AN ADMINISTRATIVE MODIFICATION WAS MADE TO THE PLACE OF USE TO
THIS IS CONSIDERED A MODIFICATION OF THE SPLIT DURING THE CHANGE
MODIFIED TO REFLECT THE PLACE OF USE CHANGE. KKC 3-27-98
PART D TO BRUBAKER FOR 0.48 CFS FOR LOT 6 OF THE THOMPSON CREEK
RANCH SUBDIVISION

+ - - Audit Fields - - +
04/01/98 KCHRISTE

+ - - Adjudication Rights Dates and Flags Area - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	-	39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-	
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-	
Claim Received Date	- 01/11/1990	Last Amended Date	- 00/00/0000	Temporary Right	- P	
		Receipt Number	- S010919	Water District	-	
		POU Ownership Flag	- Y	Federal/State Indicator	- S	
		Name Connector	- OR	Presumption Flag	- D	
				Notice of Error Flag	-	